

### TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture proposes to amend Section 3060.3 of the regulations in Title 3 of the California Code of Regulations pertaining to Plants That Are Pests.

A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period. Following the public hearing if one is requested, or following the written comment period if no public hearing is requested, the Department of Food and Agriculture, at its own motion, or at the instance of any interested person, may adopt the proposal substantially as set forth without further notice.

Notice is also given that any person interested may present statements or arguments in writing relevant to the action proposed to the agency officer named below on or before May 26, 2008.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law obligates the Department of Food and Agriculture to protect the agricultural industry in California (Food and Agricultural Code, Section 401). Existing law obligates the Department to prevent the introduction and spread of injurious insect or animal pests, plant diseases, and noxious weeds (Food and Agricultural Code, Section 403). Existing law defines "Noxious weed" as any species of plant that is, or is liable to be, troublesome, aggressive, intrusive, detrimental, or destructive to agriculture, silviculture, or important native species, and difficult to control or eradicate, which the director, by regulation, designates to be a noxious weed (Food and Agricultural Code, Section 5004). Existing law also provides that the Secretary may establish, maintain, and enforce such regulations as he deems necessary to prevent the spread of pests to protect California's agricultural industry (Food and Agricultural Code, Section 5322). Existing law obligates the Department to provide for periodic inspections of nurseries and that it may prescribe standards of cleanliness for nursery stock which is produced or sold within the state (Food and Agricultural Code, Section 6901).

Title 3 of the California Code of Regulations, Section 4500, designates those weed species that are noxious weed species. Noxious weed species pose a hazard to agriculture and some native plant species in California. Title 3 of the California Code of Regulations, Section 3060.2, establishes the standards of pest cleanliness for nursery stock produced, held, or offered for sale. The Department proposes to amend Section 3060.3 to clearly establish that noxious weeds do not meet the requirements of Section 3060.2 and cannot be produced, held, or offered for sale as nursery stock.

The proposed action does not differ from any existing, comparable federal regulation or statute.

#### COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The Department of Food and Agriculture has determined that Section 3060.3 does not impose a new mandate on local agencies or school districts. A county agricultural commissioner already has a duty to enforce Section 3060.2. The Department also has determined that the regulation will involve no costs or savings to any state agency, no nondiscretionary costs or savings to local agencies or school districts, no reimbursable costs or savings to local agencies or school districts under Part 7 (commencing with Section 17500) of Division 4 of the Government Code, and no costs or savings in federal funding to the State.

#### EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed action will not affect housing costs.

#### EFFECT ON BUSINESSES

The Department has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states.

#### COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

#### ASSESSMENT

The Department has made an assessment that the proposed amendment to the regulation would not (1) create or eliminate jobs within California, (2) create new business or eliminate existing businesses within California, or (3) affect the expansion of businesses currently doing business within California.

#### ALTERNATIVES CONSIDERED

The Department of Food and Agriculture must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

## AUTHORITY

The Department proposes to amend Section 3060.3 pursuant to the authority vested by Sections 407, 5322 and 6901 of the Food and Agricultural Code of California.

## REFERENCE

The Department proposes to amend Section 3060.3 to implement, interpret and make specific Section 6901, Food and Agricultural Code.

## EFFECT ON SMALL BUSINESS

The amendment of this regulation may affect small businesses.

## CONTACT

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed action, location of the rulemaking file, request for a public hearing, and final statement of reasons may be directed is: Stephen S. Brown, Department of Food and Agriculture, Plant Health and Pest Prevention Services, 1220 N Street, Room A-316, Sacramento, California 95814, (916) 654-1017, FAX (916) 654-1018, E-mail: [sbrown@cdfa.ca.gov](mailto:sbrown@cdfa.ca.gov). In his absence, you may contact Elizabeth Johnson at (916) 654-1017. Questions regarding the substance of the proposed regulations should be directed to Stephen S. Brown.

## INTERNET ACCESS

The Department has posted the information regarding this proposed regulatory action on its internet website ([www.cdfa.ca.gov/phpps/Regulations.html](http://www.cdfa.ca.gov/phpps/Regulations.html)).

## AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed action, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. A copy of the initial statement of reasons and the proposed regulations in underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request. In addition, when completed, the final statement of reasons is available upon request. Requests should be directed to the contact named herein.

If the regulations adopted by the Department differ from, but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of

adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer (contact) named herein.

DEPARTMENT OF FOOD AND AGRICULTURE

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Date

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Statewide Coordinator, Pierce's Disease Control Program